



February 15, 2002

ENGROSSED SENATE BILL No. 247

DIGEST OF SB 247 (Updated February 12, 2002 1:20 PM - DI 106)

Citations Affected: IC 35-38.

Synopsis: Capital sentence procedures. Provides that a female inmate under a sentence of death must be housed in a maximum security women's facility until at least 30 days before the execution date. Provides certain criteria that allow inmates under a sentence of death to be temporarily housed at another maximum security facility. Provides that identifying information of persons executing an inmate is confidential and that the department of correction may exclude a person from viewing an execution if the superintendent determines the person may compromise the safety and security of the state prison. Changes references to the title of the head of the state prison from warden to superintendent.

Effective: Upon passage.

Bray, Alexa

(HOUSE SPONSORS — STURTZ, FOLEY)

January 7, 2002, read first time and referred to Committee on Judiciary.
January 17, 2002, reported favorably — Do Pass.
January 22, 2002, read second time, ordered engrossed.
January 23, 2002, engrossed.
January 24, 2002, read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

February 5, 2002, read first time and referred to Committee on Judiciary.
February 14, 2002, reported — Do Pass.

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ES 247—LS 6721/DI 105+



February 15, 2002

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

ENGROSSED SENATE BILL No. 247

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-38-6-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The
3 punishment of death shall be inflicted by intravenous injection of a
4 lethal substance or substances into the convicted person:

5 (1) in a quantity sufficient to cause the death of the convicted
6 person; and

7 (2) until the convicted person is dead.

8 (b) The death penalty shall be inflicted before the hour of sunrise on
9 a date fixed by the sentencing court. However, the execution must not
10 occur until at least one hundred (100) days after the conviction.

11 (c) The ~~warden~~ **superintendent** of the state prison, or persons
12 designated by the ~~warden~~ **superintendent**, shall **designate the person**
13 **who is to** serve as the executioner.

14 (d) The department of correction may adopt rules under IC 4-22-2
15 necessary to implement subsection (a).

16 SECTION 2. IC 35-38-6-2 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The court in

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which a death sentence is ordered shall issue a warrant to the sheriff within fourteen (14) days of the sentence:

- (1) that is under the seal of the court;
- (2) that contains notice of the conviction and the sentence;
- (3) **that is** directed to the ~~warden~~ **superintendent** of the state prison; and
- (4) that orders the ~~warden~~ **superintendent** to execute the convicted person at a specified time and date in the state prison.

SECTION 3. IC 35-38-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. A sheriff who receives a warrant under section 2 or section 7 of this chapter shall immediately:

- (1) transport the person to the state prison;
- (2) deliver the person and the warrant to the ~~warden~~ **superintendent** of the prison;
- (3) obtain a receipt for the delivery of the person; and
- (4) deliver the receipt to the clerk of the sentencing court.

SECTION 4. IC 35-38-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The convicted person shall be confined in the state prison until the date of ~~his~~ **the convicted person's** execution. **The convicted person may temporarily be held in a maximum security facility for security purposes or during renovation of the state prison. A convicted female shall be confined in a maximum security women's prison until not more than thirty (30) days before the date of her execution. A convicted female shall be segregated from male prisoners after her transfer from the women's prison.**

(b) The convicted person's:

- (1) attorney;
- (2) physician;
- (3) relatives;
- (4) friends; and
- (5) spiritual advisor;

may visit ~~him~~ **the convicted person** while ~~he~~ **the convicted person** is confined. The department of correction shall adopt rules, under IC 4-22-2, governing such visits.

SECTION 5. IC 35-38-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) Only the following persons may be present at the execution:

- (1) The ~~warden~~ **and superintendent of the state prison.**
- (2) **The person designated by the superintendent of the state prison and any of his** assistants who are necessary to assist ~~him~~



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in the execution.

~~(2)~~ **(3)** The prison physician.

~~(3)~~ **(4)** One (1) other physician.

~~(4)~~ **(5)** The spiritual advisor of the convicted person.

~~(5)~~ **(6)** The prison chaplain.

~~(6)~~ **(7)** Not more than ten (10) friends or relatives of the convicted person who are invited by the convicted person to attend.

(b) The superintendent of the state prison may exclude a person from viewing the execution if the superintendent determines that the presence of the person would threaten the safety or security of the state prison and sets forth this determination in writing.

(c) The department of correction:

(1) shall keep confidential the identities of persons who assist the superintendent of the state prison in an execution; and

(2) may:

(A) classify as confidential; and

(B) withhold from the public;

any part of a document relating to an execution that would reveal the identity of a person who assists the superintendent in the execution.

SECTION 6. IC 35-38-6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) If the convicted person:

(1) escapes from custody before the date set for ~~his~~ execution; and

(2) is recaptured before the date set for ~~his~~ execution;

~~he the convicted person~~ shall be returned to the state prison confined and executed according to the terms of the warrant.

(b) If the convicted person:

(1) escapes from custody before ~~his~~ delivery to the ~~warden~~; **superintendent of the state prison; and**

(2) is recaptured after the date set for ~~his~~ execution;

any person may arrest ~~him~~ and commit ~~him~~ **the convicted person** to the jail of the county in which ~~he the convicted person~~ was sentenced.

The sheriff shall notify the sentencing court of the recapture, and the court shall fix a new date for the execution. The new execution date must not be less than thirty (30) nor more than sixty (60) days after the recapture of the person. The court shall issue a new warrant in the form prescribed by section 2 of this chapter.

(c) If the convicted person:

(1) escapes from ~~the state prison~~; **confinement; and**

(2) is recaptured after the date set for ~~his~~ execution;

any person may arrest ~~him~~ and commit ~~him~~ **the convicted person** to



1 the ~~state prison~~ **department of correction**. When ~~he~~ **the convicted**
 2 **person** is returned to the ~~state prison~~ **department of correction or a**
 3 **facility or place designated by the department of correction**, the
 4 ~~warden~~ **department** shall notify the sentencing court, and the court
 5 shall fix a new date for the execution. The new execution date must not
 6 be less than thirty (30) nor more than sixty (60) days after the recapture
 7 of the person. The court shall issue a warrant to the ~~warden~~
 8 **department of correction** directing ~~him~~ **the superintendent of the**
 9 **state prison** to execute the convicted person at a specified time and
 10 date in the state prison.

11 SECTION 7. IC 35-38-6-8 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) If the
 13 execution of the death sentence is suspended, the ~~warden~~ **department**
 14 **of correction** shall note the reason for the delay on the warrant but
 15 shall proceed with the execution when the period of suspension ends.

16 (b) The warrant shall be returned to the clerk of the sentencing court
 17 after:

- 18 (1) the convicted person is executed;
- 19 (2) the convicted person has been pardoned;
- 20 (3) the convicted person's judgment has been reversed;
- 21 (4) the convicted person's sentence has been commuted; or
- 22 (5) the convicted person dies before his execution;

23 with a statement concerning the completion of the execution or the
 24 reason why the person was not executed.

25 SECTION 8. IC 35-38-6-10 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. If the physician
 27 of the **state prison** and one (1) other physician certify in writing to the
 28 ~~warden~~ **superintendent of the state prison** and the sentencing court
 29 that a condemned woman is pregnant, the ~~warden~~ **superintendent** shall
 30 suspend the execution of the sentence. When the **state prison** physician
 31 and one (1) other physician certify in writing to the ~~warden~~
 32 **superintendent of the state prison** and the sentencing court that the
 33 woman is no longer pregnant, the sentencing court shall immediately
 34 fix a new execution date.

35 SECTION 9. **An emergency is declared for this act.**



COMMITTEE REPORT

Mr. President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 247, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 247 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 6, Nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Senate Bill 247, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

STURTZ, Chair

Committee Vote: yeas 8, nays 1.

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